

REL: April 23, 2021

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# Alabama Court of Criminal Appeals

OCTOBER TERM, 2020-2021

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CR-19-0546

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State of Alabama

v.

Jarron Lekell Stallworth

Appeal from Dallas Circuit Court  
(CC-19-145)

McCOOL, Judge.

The State of Alabama appeals the decision of the Dallas Circuit Court dismissing the indictment charging Jarron Lekell Stallworth with

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one count of first-degree burglary, see of § 13A-7-5(a)(2), Ala. Code 1975, and one count of first-degree assault, see of § 13A-6-20, Ala. Code 1975.

Procedural Background

On April 20, 2019, the Dallas County grand jury indicted Stallworth for one count of first-degree burglary and one count of first-degree assault.

The indictment reads as follows:

"COUNT 1

"The Grand Jury of said county charge that, before the finding of this indictment, JARRON LEKELL STALLWORTH, AKA POP, whose name is otherwise unknown to the Grand Jury, did knowingly and unlawfully enter or remain unlawfully in a dwelling of, to wit: ERICA RODGERS, with intent to commit a crime therein, to wit: ASSAULT, and in effecting entry or while in dwelling or in immediate flight therefrom, the person or another participant in the crime causes physical injury to any person who is not a participant in the crime, to wit: ERICA RODGERS, in violation of Section 13A-7-5(a)(2) of the Code of Alabama, against the peace and dignity of the State of Alabama.

"COUNT 2

"The Grand Jury of said county charge that, before the finding of this indictment, JARRON LEKELL STALLWORTH, AKA POP, whose name is otherwise unknown to the Grand Jury, did, with intent to cause serious physical injury to another person, cause serious physical injury to any person, to wit: ERICA RODGERS, by means of a deadly weapon or dangerous

instrument, to wit: A GUN, in violation of Section 13A-6-20 of the Code of Alabama, against the peace and dignity of the State of Alabama."

(C. 6.)

On January 9, 2020, Stallworth filed a motion to dismiss the indictment. Stallworth alleged the following in his motion to dismiss:

"1. The alleged victim in this case, Erica Rodgers, was living with [Stallworth] at the time of the incident leading to the indictment in this case. Count One alleges that [Stallworth] committed Burglary by going into her residence unlawfully, etc. [Stallworth] lived there, had a key which he used to enter, and entered only because he was returning home, his only intent. Attached hereto and incorporated by reference is a copy of the affidavit of Ms. Rodgers attesting to these facts, designated Exhibit 1.

"2. The altercation that occurred after the [Stallworth] returned home was instigated by Ms. Rodgers in her anger that he had been away from home. In the course of her attack on [Stallworth], Ms. Rodgers slipped, fell, and injured her head. The only physical acts by [Stallworth] were in self-defense. Ms. Rodgers addresses these facts in her affidavit.

"3. Ms. Rodgers states in her affidavit that, after the arrest of [Stallworth], she went to the Selma Police Department to try to correct this matter and was not allowed to correct the factual allegations against [Stallworth] by Detective Jeff Hardy.

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"4. [Stallworth] suspects that the Grand Jury indicted upon testimony that was untrue, although such may not have been known by the State.

"5. It is clear that the State cannot prevail in this case and, thus, the interests of justice require[] dismissal. This is true not only because of judicial economy but, even more, because [Stallworth] is incarcerated [and] unable to make bond on charges of which he is clearly innocent."

(C. 90.) In support of his motion to dismiss the indictment, Stallworth also attached an affidavit from Erica Rodgers, the alleged victim, in which Rodgers stated that she did not wish to pursue the matter against Stallworth and claimed that the facts presented by Stallworth in his motion to dismiss were the true statements of what had happened during the incident.

On January 13, 2020, the circuit court filed an order, stating:

"MOTION TO DISMISS filed by [Stallworth] is hereby submitted. The State, if it objects, shall file a response within (7) days, or the motion shall be deemed GRANTED."

(C. 94.)

The State filed its objection to Stallworth's motion to dismiss on January 29, 2020. In its objection, the State argued: "The Court does not

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have the authority to grant the defendant's motion at this time." (C. 97.)

The State requested that the case remain set for trial.

On February 4, 2020, the court entered an order setting a trial date for March 2, 2020.

On March 2, 2020, the circuit court entered the following order:

"THIS MATTER CAME BEFORE THE COURT FOR A PRE-TRIAL HEARING AND PURSUANT TO THE STATE'S FAILURE TO COMPLY WITH THE ORDER ISSUED BY ACTING CIRCUIT COURT JUDGE ROBERT BRYANT ON JANUARY 13, 2020, THIS CASE IS DISMISSED WITH PREJUDICE."

(C. 99);(capitalization in original.)

On March 6, 2020, pursuant to Rule 15.7, Ala. R. Crim. P., the State filed a notice of appeal from the circuit court's order dismissing the indictment against Stallworth, claiming that the court lacked the authority to dismiss the indictment.

### Discussion

On appeal, the State reasserts its claim that the circuit court lacked the authority to dismiss the indictment against Stallworth. Specifically, the State contends that the court's order granting Stallworth's motion to

dismiss constituted a "pretrial determination of the sufficiency of the evidence, which falls outside of the grounds for pretrial dismissal of an indictment permitted by the Alabama Rule of Criminal Procedure and Alabama caselaw" and that the State did not invite the circuit court's error. (State's brief, at 7.) Stallworth argues that the State's appeal was untimely and that, even if the State's appeal was timely, the circuit court's dismissal of the indictment against him was proper.

I.

As an initial matter, Stallworth contends that this appeal is due to be dismissed because, he says, the State's notice of appeal was untimely. Specifically, he claims that, because the circuit court's January 13, 2020, order stated that "[t]he State, if it objects, shall file a response within (7) days, or the motion shall be deemed GRANTED," the indictment should have been considered dismissed on January 20, 2020. Thus, Stallworth maintains, the State's appeal, which was not filed until March 6, 2020, was untimely. We disagree.

First, we question whether a circuit court has the authority to issue a conditional order purporting to render an automatic ruling if certain

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conditions are or are not met without requiring the court to take further action. However, even assuming, without deciding, that the circuit court had the authority to issue such a conditional order, the record indicates that that was not the circuit court's intention in the present case. Although the State's objection to Stallworth's motion to dismiss was not filed within the seven-day time period set forth in the circuit court's January 13 order, the record indicates that on February 4, 2020, the court held an arraignment, accepted Stallworth's not-guilty plea, and entered an order setting trial for March 2, 2020. See (C. 98.) The court then issued a final order dismissing the indictment against Stallworth on March 2, 2020. Because the record indicates that the court's intention was not an automatic dismissal based on the State's lack of action within a certain time, and because the court's final dismissal was not entered until March 2, 2020, the State's March 6, 2020, notice of appeal was timely. See Rule 15.7(b), Ala. R. Crim. P.

## II.

We turn now to the State's claim that the circuit court lacked the authority to dismiss the indictment against Stallworth. The State

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maintains that the court's dismissal constituted a "pretrial determination of the sufficiency of the evidence, which falls outside of the grounds for pretrial dismissal of an indictment permitted by the Alabama Rules of Criminal Procedure and Alabama caselaw" and that the State did not invite the circuit court's error.

This Court has previously considered the court's authority to dismiss an indictment against a defendant, stating:

"A trial court's authority to grant a pretrial motion to dismiss the indictment is limited by Rule 13.5(c)(1), Ala. R.Crim. P. State v. Bethel, 55 So. 3d 377, 378–79 (Ala. Crim. App. 2010). Rule 13.5(c)(1) states that a 'motion to dismiss the indictment may be based upon objections to the venire, the lack of legal qualifications of an individual grand juror, the legal insufficiency of the indictment, or the failure of the indictment to charge an offense.' "

State v. Walker, 192 So. 3d 426, 428 (Ala. Crim. App. 2015). This Court has also held:

" 'Rule 13.5(c)(1) does not provide for the dismissal of an indictment based on the insufficiency of the evidence or, as in this case, a possible lack of evidence. See State v. Edwards, 590 So.2d 379 (Ala. Crim. App. 1991) (establishment of the corpus delicti requires proof of facts by the State so entwined with the merits of the case that a decision as to whether it had been proved should not be

made before trial but should be postponed until trial); State v. McClain, 911 So. 2d 54 (Ala. Crim. App. 2005)(trial court cannot dismiss the indictment based on a lack of evidence).'

"[State v. Foster, 935 So.2d 1216, 1216-17 (Ala. Crim. App. 2005).] See State v. Anderson, 8 So. 3d 1033 (Ala. Crim. App. 2008). See also United States v. Sharpe, 438 F.3d 1257, 1263 (11th Cir. 2006) ('It is well-settled that "a court may not dismiss an indictment ... on a determination of facts that should have been developed at trial." United States v. Torkington, 812 F.2d 1347, 1354 (11th Cir. 1987).')."

State v. Bethel, 55 So. 3d 377, 379 (Ala. Crim. App. 2010).

Additionally, in Ex parte Worley, 102 So. 3d 428, 429 (Ala. 2010), the Alabama Supreme Court considered a case in which the trial court granted a defendant's motion to dismiss an indictment based on the trial court's conclusion that the State's evidence was insufficient to support certain charges. In the case of Ex parte Worley, the trial court held a hearing on Worley's motion to dismiss, during which the State outlined for the court the evidence that the State expected to present at trial, and the trial court subsequently dismissed five felony charges against the defendant. 102 So. 3d at 431. The State appealed the trial court's dismissal of said charges, and this Court initially reversed the trial court's

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dismissal of the charges against the defendant in Worley, holding that the trial court's dismissal of the felony charges was erroneous because it constituted a pretrial fact-based determination of the evidence. See Worley v. State, 102 So. 3d 408 (Ala. Crim. App. 2009). However, in Ex parte Worley, the Alabama Supreme Court reversed this Court's decision, holding that the State had "invited the error ... when it laid out for the trial court the evidence it expected to offer in opposition to Worley's motion without informing the court that it would be premature for it to consider that evidence." 102 So. 3d at 434.

In the present case, Stallworth did not object to the venire, the lack of legal qualifications of an individual grand juror, the legal insufficiency of the indictment, or the failure of the indictment to charge an offense. The only argument made by Stallworth in his motion to dismiss the indictment was that he was "clearly innocent" and that the State could not prevail. (C. 91). Rule 13.5(c)(1), Ala. R. Crim. P., specifically limits the court's authority to dismiss an indictment against a defendant to certain circumstances, and the only ground presented in the instant case – the insufficiency of the State's evidence against the defendant – does not fall

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within those limited circumstances. Thus, the circuit court lacked the authority to grant Stallworth's motion to dismiss on those grounds.

We also agree with the State's contention that the State did not invite the error in this particular case. Unlike the situation in Worley where the State presented a proffer of evidence instead of objecting to the court's dismissal on the ground that the trial court lacked the authority to dismiss the indictment at that time based on a factual determination of the evidence, the State in the instant case did not present any evidence to the circuit court. To the contrary, the State in the instant case did, in fact, argue in its objection to the motion to dismiss that the court lacked the authority to dismiss the indictment at that time. Thus, the State did not invite the circuit court's error in dismissing the indictment in the instant case.

Here, it is important to note that Stallworth does not argue that the court had the authority to grant his motion to dismiss based on the ground that the State did not have sufficient evidence to support the charge; instead, he argues only that the circuit court's dismissal order was strictly based on the State's failure to timely respond to his motion to dismiss the

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indictment and, thus, that the dismissal was proper. Specifically, he claims that the dismissal was proper because the State did not timely object to his motion to dismiss within the court's seven-day time period provided in its January 13, 2020, order.

In making his argument, Stallworth relies on Wiggins v. State, 193 So. 3d 765 (Ala. Crim. App. 2014). Stallworth specifically cites the following portion of Wiggins in his brief:

""Recently, we acknowledged the trial court's responsibility to manage criminal cases, which 'includes the setting of reasonable controls on attorney's trying the case.' People v. Berreth, 13 P. 3d 1214, 1218 (Colo. 2008)(concluding that docket and administrative concerns are within the control of a trial judge). The American Bar Association (ABA) also advocates that the court, and not the attorneys, set the schedule for cases because 'only the court is in a position to provide orderly and impartial discretion to the movement' of cases. ABA, The Improvement of the Administration of Justice 37 (6<sup>th</sup> ed. 1981). Thus, we conclude that the setting of deadlines for pretrial matters constitutes an integral part of a trial court's case management authority.

""Case management by the trial court promotes policies of judicial efficiency and economy. We must interpret our rules of criminal procedure 'to secure simplicity in procedure,

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fairness in administration, and the elimination of unjustifiable expense and delay.' Crim. P. 2."'"

(Stallworth's brief, at 4)(citing Wiggins, 193 So. 3d at 780-81 (quoting People v. Jasper, 17 P.3d 807, 812-13 (Colo. 2001))).

In Wiggins, at the end of the first day of Wiggins's trial, Wiggins indicated to the court that he did not wish to enter into a plea agreement with the State; however, after the jury returned a verdict convicting him of capital murder, Wiggins notified the court that he wished to change his plea; the circuit court would not accept his guilty plea because the jury had already returned a verdict. This Court noted that Rule 14.3(b), Ala. R. Crim. P., provided the court with discretion to accept or reject a plea agreement and looked to other jurisdictions regarding whether the court had the authority to set time constraints on a defendant's acceptance of a guilty plea. In Wiggins, this Court ultimately held that the defendant's constitutional rights were not violated where the court imposed a deadline for the defendant to accept the State's plea offer and where the record clearly indicated that the defendant has been fully informed of the

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deadline and the consequences of the failure to accept the State's plea offer.

We acknowledge the importance of allowing a trial court discretion in the management of cases in its court, as this Court discussed in Wiggins. However, Stallworth's reliance on Wiggins to support his contention in the present case is misplaced. The instant case does not involve a plea or the court's exercise of its discretion in whether to accept a proposed plea agreement following a conviction by a jury; rather, the instant case involves the court's discretion to dismiss an indictment before trial and to dismiss the case in its entirety. Unlike the situation in the Wiggins, where the court's refusal to accept a guilty plea does not affect the State's obligation to prosecute case, the court's dismissal of an indictment, such as here, does affect the State's ability to prosecute cases.

Although the specific issue whether a trial court has the discretion to dismiss an indictment based on the State's failure to object to a defendant's motion to dismiss an indictment within a certain court-ordered period has not squarely been addressed by this Court, this Court has addressed similar situations concerning a circuit court's ability to

dismiss cases based on the State's failure to prosecute. For example, in State v. Watts, 35 So. 3d 1 (Ala. Crim. App. 2009), this Court discussed whether the trial court had the discretion to dismiss charges against a defendant after the prosecutor informed the court that the victims were not present for voir dire. This Court explained:

" "A duty rests upon the prosecuting attorney to prosecute in his county or district, on behalf of the people, all public offenses. Where a statute so provides, the prosecuting attorney must initiate proceedings for the prosecution of persons charged with or reasonably suspected of public offenses, when he has information that such offenses have been committed." "

Piggly Wiggly No. 208, Inc. v. Dutton, 601 So.2d 907, 910 (Ala. 1992). 'It is the obligation of the attorney general and the district attorney to expose and prosecute crimes. In re White, 53 Ala. App. 377, 300 So.2d 420, cert. denied, 293 Ala. 778, 300 So. 2d 439 (1974). Such is not the primary function of the judicial branch of government.' Dickerson v. State, 414 So. 2d 998, 1008 (Ala. Crim. App. 1982), abrogated on other grounds by Ex parte Bohannon, 564 So. 2d 854 (Ala. 1988). Cf. State v. Anderson, 8 So. 3d 1033, 1037 (Ala. Crim. App. 2008) (acknowledging the trial court's frustration, but holding that that court exceeded its authority by dismissing the charge in a guilty plea when the State did not present witnesses to establish the factual basis of the plea after Anderson disputed them). See also State v. Salinas, 976 S.W.2d 870, 871 (Tex. App. 1998) 'The Texas Constitution does not confer upon the trial court the general ability to maintain its docket by causing

or preventing the dismissal of prosecutions. Rather, in this state, responsibility for maintaining or discontinuing criminal prosecutions is vested almost exclusively in the district and county attorneys, and not in the trial judges. Accordingly, a Texas trial court has no authority to dismiss a case, either on the defendant's motion or on the court's own motion, unless the prosecutor consents or the dismissal is otherwise authorized by constitution, statute, or common law.' (footnotes omitted).

" 'While a trial court is thus authorized to dismiss an accusation, it may not do so in a manner "impermissibly interfer[ing] with the State's right to prosecute..." State v. Aldridge, 259 Ga. App. 673, 674(1), 577 S.E.2d 863 (2003).' State v. Carr, 287 Ga. App. 691, 692, 652 S.E.2d 597, 598 (2007). In District of Columbia v. Cruz, 828 A.2d 181, 183 (D.C. 2003), the trial court dismissed the charges against Cruz before trial based on a rule of procedure and due to the prosecution's lack of preparedness. The appellate court stated:

" 'Under Super. Ct. Crim. R. 48(b):

" ' "a court has inherent authority to dismiss for want of prosecution. However, there are limitations on this authority to dismiss for want of prosecution: Such authority may not be exercised in an 'arbitrary, fanciful, or clearly unreasonable' manner, and the court may dismiss with prejudice for want of prosecution only when it [has] conclud[ed] that the defendant's constitutional right to a speedy trial has been violated."

"United States v. Mack, 298 A. 2d 509, 510 (D.C. 1972) (emphasis in original; internal citations omitted).'

"(Footnote omitted.) In Cruz, the court concluded that the trial court's dismissal was due to be reversed especially because Cruz did not assert a speedy-trial violation.

"In Holtzman v. Goldman, 71 N.Y.2d 564, 523 N.E.2d 297, 528 N.Y.S.2d 21 (1988), the complaining witness could not be located on the day of trial and the people requested an adjournment or continuance; the trial court denied the motion and dismissed the charges. The appellate court reversed, stating:

" 'The power of the trial court to deny the People further adjournment is not disputed; the error lies in the corrective action it took after it did so. Trial courts are vested with statutory power to dismiss indictments, of course, but the power is not unlimited.'

"71 N.Y.2d at 570, 523 N.E.2d at 301, 528 N.Y.S.2d at 25. See also Commonwealth v. Gonzalez, 237 S.W.3d 575 (Ky. Ct. App. 2007) (holding that district court lacked authority to dismiss charges of driving under the influence, reckless driving, operating a motor vehicle without a seatbelt, and operating a motor vehicle without insurance without State's consent, where dismissal was at Gonzalez's request based on absence of arresting officer); Commonwealth v. King, 932 A. 2d 948 (Pa. Super. Ct. 2007) (holding that trial court improperly dismissed charges pretrial because the State did not disclose the identity of a confidential informant); State v. Fisher, 212 S.W.3d 378 (Tex. App. 2006) (holding that the trial court was not authorized to dismiss misdemeanor charges without the

State's consent on the basis that the State had refused to consent to Fisher's waiver of a jury trial).

" 'Countervailing the principle of the prosecution's control of a criminal case are the trial court's interest in controlling its own docket and the defendant's right to a speedy trial. People v. Guido (1973), 11 Ill. App. 3d 1067, 1070, 297 N.E.2d 18, 20, discussed the interaction between the former and latter considerations and held that both were adequately served by the constitutional right to a speedy trial (see generally Barker v. Wingo, (1972), 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101) and by the statutory enactments requiring trial within a specified time. (Ill. Rev. Stat. 1979, ch. 38, par. 103-5.) But presciently Guido alluded to the problem now before us:

" ' "The conclusion we have reached does not leave the court powerless to control its calendar. .... (T)he court has contempt powers to require the State to appear. In the unlikely event that a prosecuting officer should refuse to proceed to trial after being ordered by the court to do so, the trial judge may order that the case proceed to trial." 11 Ill. App. 3d 1067, 297 N.E.2d 18, 20.

" "The same conclusion was also reached in People v. Thomas (1975), 24 Ill. App. 3d 907, 908, 322 N.E.2d 97. The Thomas court said: "Where the motion for a continuance has been properly denied the case should be called for trial and if no evidence or insufficient evidence is presented by the People

then a judgment of acquittal may be entered by the court." ' "

"People v. Mooar, 92 Ill. App. 3d 852, 855, 416 N.E.2d 81, 84, 48 Ill. Dec. 186, 189 (1981)."

35 So. 3d at 5-7. This Court ultimately held that the circuit court's dismissal of the charges against Watts was improper, noting that "the trial court could have imposed less stringent measures than dismissing the charges against Watts" and that "Watts made no showing of prejudice, on speedy-trial ground or otherwise, as a result of the absence of the victim and witness for presentation to the venire; the victim and witness would be available to testify at trial; and there was no indication of undue continuances." Id. at 7.

We acknowledge that Watts, supra, involved a question of whether the trial court had the ability to dismiss charges against the defendant at a different stage of proceedings than we are presented with here. However, much like the situation in Watts, this case concerns the dismissal of a case against a defendant in its entirety and also involves the balance of the same countervailing interests and legal principles as those that were present in Watts. Although a circuit court has the

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authority to dismiss a case for want of prosecution, that authority is not unlimited. See id. Likewise, the circuit court's discretion to dismiss an indictment is not unlimited. Not only do the provisions of Rule 13.5(c)(1) limit the circuit court's discretion in dismissing an indictment, but the circuit court's authority to dismiss charges against a defendant should also be limited in that a circuit court shall not "impermissibly interfere with the State's right to prosecute" and its discretion should not be exercised in an "'arbitrary, fanciful, or clearly unreasonable' manner.'" See Watts, 35 So. 3d at 5-7.

In the present case, Stallworth filed his motion to dismiss the indictment on January 9, and the only ground presented by Stallworth to support his motion to dismiss was that there was insufficient evidence to support the charges against him, which is not a reason that grants the circuit court the authority to dismiss the indictment under Rule 13.5(c)(1). The State filed its objection to the motion to dismiss the indictment on January 29, which was only nine days past the court's seven-day period, and the State correctly asserted that the court did not have the authority to grant the defendant's motion at that time. Although the State's

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objection was not filed within the stringent time line provided by the court, the State's delay in filing a response was not egregious. Further, after the State's objection to the dismissal was filed, the court held arraignment proceedings, ascertained that Stallworth was correctly named in the indictment at the arraignment proceedings, accepted Stallworth's plea of not guilty, and set a trial date for March 2, 2020, indicating that the court's intention was to continue with proceedings on the case. We, again, acknowledge that the circuit court does have an interest in the management of its case docket and that it should be allowed to place reasonable time limits on the parties in a case; however, that interest does not allow the court to interfere with the State's duty to prosecute cases, which the dismissal of the indictment in this case does, and does not allow the court to exercise its authority in an unreasonable manner as the court does in this case, where the dismissal was apparently prompted by a nine-day delay in the State filing an objection to Stallworth's motion, which was based on improper dismissal grounds. Thus, under the facts of this particular case, the circuit court did not have the authority to grant Stallworth's motion to dismiss the indictment

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against him based on a factual determination of the evidence or for the State's failure to object to the motion to dismiss the indictment within a prescribed time, especially where the delay in the filing of the objection was not unreasonable and did not interfere with Stallworth's right to a speedy trial.

Based on the foregoing, the judgment is reversed and this cause remanded for the reentry of the charges against Stallworth.

**REVERSED AND REMANDED.**

Windom, P.J., and Kellum, Cole, and Minor, JJ., concur.